

# Calendar No. 1952

86TH CONGRESS }  
2d Session }

SENATE }

REPORT  
No. 1882

## ISAMI NOZUKA

AUGUST 22, 1960.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

### REPORT

[To accompany H.R. 10431]

The Committee on the Judiciary, to which was referred the bill (H.R. 10431) for the relief of Isami Nozuka (also known as Isami Notsuka), having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

#### PURPOSE

The purpose of the proposed legislation is to waive the limitations of the Trading With the Enemy Act so as to permit Isami Nozuka, a citizen of the United States, to file a claim or institute a suit for the return of his property vested under vesting order No. 16184 dated December 5, 1950, by the Office of Alien Property of the Department of Justice.

#### STATEMENT

The facts of this case and the conclusion thereon of the House Committee on the Judiciary, as set forth in House Report No. 1709, follow:

Mr. Isami Nozuka is a native-born citizen of the United States. The Attorney General vested a bank account under vesting order No. 16184, dated December 5, 1950, on the strength of a purported renunciation of his citizenship which he signed while being held at a relocation center during World War II. This renunciation was held to be null, void and without legal effect by the Southern Division of the U.S. District Court for the Northern District of California on March 21, 1956. The order entered on that date stated:

"That the plaintiffs hereinafter identified are and at all times have been, natives, nationals and citizens of the United States of America, and entitled to the rights and privileges of such nationality and citizenship, notwithstanding their purported applications for renunciation of U.S. nationality pursuant to section 401(i) of the Nationality Act of 1940, as amended, their purported renunciations of U.S. nationality pursuant thereto and the approvals thereof given by the Attorney General, all of which occurred during the calendar years 1944 and 1945, and all of which are hereby declared to be, and at all times to have been, null, void, and without legal effect upon the status and rights as nationals and citizens of the United States of any of such plaintiffs, whose names and birth dates are as follows:

Name: Nozuka, Isami.

Birthday: August 25, 1920.

That no costs shall be taxed by the clerk to any party. Done in open court this 21st day of March 1956."

This committee has carefully considered this matter including the findings set forth in the cases of *Acheson v. Murakami* (176 F. 2d 953), and *McGrath v. Abo* (186 F. 2d 766), which were cited in the order referred to above. Those opinions detail the circumstances faced by those Americans of Japanese ancestry who were forced from their homes and sent to relocation centers during World War II. It is clear that such conditions led the courts to hold that renunciations such as here involved were involuntary and invalid.

In the report of the Department of Justice on this bill, that Department stated:

"In view of the circumstances involved in this case the Department of Justice interposes no objection to the enactment of the bill."

This committee feels that some of the reasons for equitable relief are reflected in the following quotation from the district court decision in the case of *Tadayasu Abo v. Clark* (77 F. Supp. 806 (1948)):

"The Government of the United States under the stress and necessities of national defense, committed error in accepting the renunciations of the greater number of the plaintiffs herein. The highest standards of public morality and the inexorable requirements of good conscience rest upon the Government in its dealings with its citizens. It must be slow to afflict and quick to make retribution. The Government must be neither reluctant nor evasive in correcting wrongs inflicted upon a citizen. By so doing it demonstrates to the people of the world the fairness and justice of our form of society and law. The Government need not sheepishly confess error; it must be stalwart and forthright in its recognition of injustice. By so doing, faith and confidence in our system of law will be maintained."

In view of the fact that Mr. Nozuka has been held by the courts to have never renounced nor lost his citizenship, it is only right that he be accorded the opportunity of filing for the property taken from him on the erroneous assumption that

he was an alien in 1950 and subject to the seizure provisions of the Trading With the Enemy Act. Accordingly, the committee recommends that the bill be considered favorably.

The committee agrees with the conclusion reached by the House Committee on the Judiciary, and concurs in the recommendation that the bill be given favorable consideration.

Attached hereto and made a part hereof is the letter from the Department of Justice concerning this claim.

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U.S. DEPARTMENT OF JUSTICE,  
OFFICE OF THE DEPUTY ATTORNEY GENERAL,  
*Washington, D.C., May 19, 1960.*

Hon. EMANUEL CELLER,  
*Chairman, Committee on the Judiciary,  
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice concerning the bill (H.R. 10431) for the relief of Isami Nozuka (also known as Isami Notsuka).

Mr. Nozuka is seeking to recover his property which was vested by the Office of Alien Property of the Department of Justice in 1950. However, section 33 of the Trading With the Enemy Act, as amended, provides that claims for the return of vested property must have been filed within 2 years from the date of vesting or by February 5, 1955, whichever is later. Mr. Nozuka did not communicate with the Department with regard to his property until 1956.

The bill would waive the bar of the applicable statute of limitations to permit Mr. Nozuka to file a claim or institute suit for the return of the funds in a bank account in his name which was vested by the Attorney General pursuant to the provisions of the Trading with the Enemy Act. The Office of Alien Property of the Department of Justice has received \$2,164.60 from this account.

The records of the Department of Justice indicate that Mr. Nozuka was born in Stockton, Calif.; that he renounced his U.S. citizenship on March 22, 1945, and voluntarily went to Japan later that year. Thereafter, in 1956 Mr. Nozuka obtained a district court judgment canceling his renunciation of citizenship. This judgment had the effect of making Mr. Nozuka eligible for the return of his property.

Thereafter, when he communicated with the Office of Alien Property, he was advised that because of the bar date set forth in section 33, no relief was available to him under existing law.

In view of the circumstances involved in this case the Department of Justice interposes no objection to the enactment of the bill.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely yours,

LAWRENCE E. WALSH,  
*Deputy Attorney General.*

